



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE March 23, 2023

TO Joint Judiciary Committee

FROM Brian Fuller, Senior Staff Attorney

SUBJECT Topic Summary: Corrections Compacts

This topic summary provides an overview of the Western Interstate Corrections Compact, of which Wyoming is a party, and the Interstate Corrections Compact (which Wyoming has not joined).

Approved Interim Topic

Priority #3-Department of Corrections Issues

The Committee will study and review Department of Corrections investigation reports and the Wyoming Public Records Act and correctional compacts.

Western Interstate Corrections Compact

Wyoming entered its first interstate compact concerning the housing of inmates and fugitives in 1932.¹ This compact was between Wyoming, Colorado, Kansas, and New Mexico.² While this compact addressed matters beyond the housing of inmates in state correctional institutions, the compact provided that any state that was a party to the compact had the right to use the state correctional institutions or county jails of another state for the temporary lodging of fugitives apprehended in the other state.³

As required under Article I, Section 10 of the United States Constitution, Congress granted its consent for any two or more states to enter into agreements or compacts "for cooperative

¹ 1932 Wyo. Session Laws Ch. 32, § 1.

² Id.

³ Id.

effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies[.]”⁴ This consent also authorizes states to establish agencies (including joint agencies) to effectuate or implement these agreements or compacts.⁵ This consent forms the basis for the creation of the Western Interstate Corrections Compact and the Interstate Corrections Compact.

The Wyoming Legislature enacted the first iteration of the Western Interstate Corrections Compact in 1959.⁶ The Compact was recodified in 1987.⁷ The language of the Compact has remained virtually unchanged since its initial enactment in 1959. Wyoming is 1 of 11 states that is a signatory to and participant in the Compact.⁸

The Compact authorizes a party state to enter into contracts with another party state for the confinement of inmates from the party state in correctional institutions (including facilities for mentally ill inmates) in the other party state.⁹ Any contract between party states must include:

- The duration of the contract.
- Payments to be made from the sending state to the receiving state for inmate maintenance costs, extraordinary medical and dental expenses, and inmate participation in rehabilitative or correctional services, facilities, or programs that are not reasonably included as part of normal costs.
- Participation in programs of inmate employment (if any), the crediting of any payments that an inmate may receive, and the crediting of proceeds from the disposal of any products resulting from the employment.
- The delivery and retaking of inmates.
- Any other matters that are necessary and appropriate to establish the obligations, responsibilities, and rights of the sending state and the receiving state.¹⁰

⁴ 4 U.S.C. § 112(a); 73 Pub L. No. 293 (1934). Later, Congress provided that, for purposes of this congressional consent, Puerto Rico, the Virgin Islands, Guam, and the District of Columbia may participate in these agreements or compacts. 4 U.S.C. § 112(b).

⁵ 4 U.S.C. § 112(a).

⁶ 1959 Wyo. Session Laws Ch. 147. The Compact became binding upon states that adopted the Compact when any two contiguous states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming enacted the Compact into law. W.S. 7-3-401, Compact art. VII.

⁷ 1987 Wyo. Session Laws Ch. 157.

⁸ The Council of State Governments, Western Corrections Compact, available at <https://apps.csg.org/ncic/Compact.aspx?id=209> (last visited March 20, 2023).

⁹ W.S. 7-3-401; Compact art. III(a).

¹⁰ W.S. 7-3-401; Compact art. III(a)(i)–(v).

Once a party state has entered into a contract with another compact state, the sending state has the right to direct the confinement of an inmate in the receiving state if the sending state determines that the confinement in or transfer to the receiving state is necessary to provide adequate quarters and care or to provide an appropriate program of rehabilitation or treatment to the inmate.¹¹ The Compact also allows appropriate officials of any state party to have access at reasonable times to any institution in which the state has a contractual right to confine inmates in order to inspect the institution and to visit inmates housed there.¹²

Inmates who are housed in a different compact state remain subject to the sending state's jurisdiction; in other words, the sending state can remove an inmate from a receiving state or transfer an inmate to another institution.¹³ Receiving states are required to provide regular reports to each sending state on the inmates of the sending state, including conduct records.¹⁴ Receiving states must treat inmates from sending states equally with inmates of the receiving state and cannot deprive those inmates from sending states of any legal rights that the inmates would be entitled to in the sending state.¹⁵

The Compact also provides the following rights and requirements for inmates and participating states:

- Hearings involving inmates held in receiving states may be held before the appropriate authorities of the sending state or, if the sending state consents, the receiving state. The governing law of any hearing is of the sending state, which is entitled to a record of any hearing held involving one of its inmates.¹⁶
- Inmates who are released must be released within the sending state unless the sending state and the receiving state agree upon release in some other place. The sending state must bear the costs of the return of an inmate to the sending state.¹⁷
- Inmates housed in receiving states have the same rights and benefits to which the inmate would be entitled if housed in the sending state.¹⁸
- Any decision made by a sending state regarding any matter over which the sending state retains jurisdiction is conclusive upon and not reviewable within the receiving

¹¹ W.S. 7-3-401; Compact art. IV(a).

¹² W.S. 7-3-401; Compact art. IV(b).

¹³ W.S. 7-3-401; Compact art. IV(c).

¹⁴ W.S. 7-3-401; Compact art. IV(d).

¹⁵ W.S. 7-3-401; Compact art. IV(e).

¹⁶ W.S. 7-3-401; Compact art. IV(f).

¹⁷ W.S. 7-3-401; Compact art. IV(g).

¹⁸ W.S. 7-3-401; Compact art. IV(h).

state, unless an inmate is subject to criminal charges for offenses committed while housed in a receiving state.¹⁹

- An inmate who escapes from an institution in a receiving state is deemed a fugitive or escapee of the sending state; if the inmate is apprehended in a non-compact state, the sending state is responsible for initiating extradition proceedings.²⁰
- Any compact state can accept federal aid for use in connection with any institution or program, the use of which is or may be affected by the Compact or any contract entered under the Compact.²¹
- A state can withdraw from the Compact by repealing a statute enacting the Compact and providing formal written notice to each state participating in the Compact. Actual withdrawal does not take place until two years after the notices are sent to the other party states, and withdrawal does not relieve the withdrawing state from its obligations before withdrawal takes place. A withdrawing state must remove all inmates housed in Compact states before the date of withdrawal at its own expense.²²

In enacting the Compact, the state of Wyoming provided additional requirements and authorizations associated with the implementation and enforcement of the Compact:

- Any court or other agency of the state may commit or transfer an inmate to any institution in or outside of Wyoming if the state has entered into a contract for the confinement of inmates pursuant to the Compact.²³
- Wyoming's courts, departments, agencies, and officers must enforce the Compact and shall do all things appropriate to effectuate the Compact's purposes and intent, including preparing reports as the Compact may require.²⁴
- The Governor is authorized and directed to hold any hearings that a compact state may request pursuant to the Compact.²⁵
- The Governor is authorized to enter into contracts on behalf of the state as may be appropriate to implement the state's participation in the Compact. Any contract involving the Compact cannot take effect until the Wyoming Attorney General approves it.²⁶

¹⁹ W.S. 7-3-401; Compact art. V(a).

²⁰ W.S. 7-3-401; Compact art. V(b).

²¹ W.S. 7-3-401; Compact art. VI.

²² W.S. 7-3-401; Compact art. VIII.

²³ W.S. 7-3-402.

²⁴ W.S. 7-3-403.

²⁵ W.S. 7-3-404.

²⁶ W.S. 7-3-405.

Interstate Corrections Compact

The Interstate Corrections Compact is a nationwide compact that enables states to contract with one another for the housing, care, treatment, and rehabilitation of inmates. Any state and certain United States territories may enter into the Interstate Corrections Compact.²⁷ Currently, 38 states and the District of Columbia are party states to the Interstate Corrections Compact.²⁸ The language of the Interstate Corrections Compact is nearly identical to the language found in the Western Interstate Corrections Compact that Wyoming has joined.²⁹ The key differences between the Interstate and Western Compacts are:

- The Western Interstate Corrections Compact authorizes any party state to contract with another party state for the construction or addition to any correctional institution and to contract for the receiving state to reserve a specific percentage of inmate capacity at the receiving state's institution that has been constructed or to which an addition has been completed.³⁰ This language does not appear to be part of the Interstate Corrections Compact.
- Withdrawal from the Interstate Corrections Compact may be completed one year after sending formal written notice to all other participating states; the Western Interstate Corrections Compact requires a two-year waiting period.³¹

Conclusion

This memorandum provides background information on the Western Interstate Corrections Compact and the Interstate Corrections Compact. Please let me know if you have any questions or require further information.

²⁷ See 4 U.S.C. § 112.

²⁸ The Council of State Governments, Interstate Corrections Compact, available at <https://apps.csg.org/ncic/Compact.aspx?id=82> (last visited March 21, 2023).

²⁹ The Council of State Governments, Interstate Corrections Compact, available at <https://apps.csg.org/ncic/PDF/Interstate%20Corrections%20Compact.pdf> (last visited March 21, 2023).

³⁰ W.S. 7-3-401; Compact art. III(b).

³¹ W.S. 7-3-401; Compact art. VIII.